

REMARKS

Upon entry of the present amendment, claims 1-6 will remain pending in the above-identified application and stand ready for further action on the merits.

The amendments made herein to the specification do not incorporate new matter into the application as originally filed. For example, the title of the invention has been amended in order to better reflect the claims under consideration. Further, page 3 of the specification has been amended based on a request by the Examiner to provide clarity.

Accordingly, entry of the present amendment is respectfully requested.

***Claim Rejections Under 35 USC § 102/103***

Claims 1-2 and 6 have been rejected under 35 USC § 102(e) as being anticipated by Yoshioka (US 6,156,023). Further, remaining claims 3-5 have been rejected under 35 USC § 103(a) as being unpatentable over the same Yoshioka reference. Reconsideration and withdrawal of these rejections are respectfully requested based upon the following considerations.

***The Present Invention and Its Advantages***

The present invention provides an absorbent article such as a disposable diaper, in which a three-dimensional guard is provided, having a favorable raising property and giving a nice fit (intimate contact property) to the wearer's skin, and in which the leakage preventing property and the feel during wear are excellent.

More particularly, the three-dimensional guard of the present invention has a skin-contacting surface portion formed by folding back a side on a free side towards the outer side of the absorbent article (see claim 1 and figures 1-4).

By way of providing the absorbent articles of the present invention having a three-dimensional guard as noted, excellent results are achieved both with respect to fitness (intimate contact property) to the skin and excellent leakage-prevention property. In this respect, the Examiner's attention is directed to Examples 1-2 and Comparative Examples 1-3 set forth in the specification at pages 10-11, and the results provided therefore as shown in Table 1 at page 12 of the specification. As shown in Table 1, the diapers of the present invention were each excellent in fitness and in their ability to retain excreta, thereby preventing leakage.

***Distinctions Over the Cited Art***

The teachings of Yoshioka '023 do not provide for an absorbent member as instantly claimed. More particularly, the cited Yoshioka et al. reference does not provide for an absorbent member having a skin-contacting surface portion formed by folding back a side on a free side towards the outer side of the absorbent article. Moreover, the three-dimensional guard of Yoshioka '023 is not formed by folding.

Additionally, in the present invention, the elastic members are respectively disposed and fixed to the skin-contacting surface portion and to an approximately width-wise central portion of a raised portion between the skin-contacting surface portion and a base end of the three-dimensional guard. However, the elastic members of Yoshioka et al. are not disposed to such raised portions, as is clearly evident upon a review of Figure 3 of Yoshioka '023 and its supporting disclosure at columns 2-4.

The above distinctions are important, inasmuch as Comparative Examples 1-3 of the instant specification illustrate that three-dimensional guards formed (i) without providing the raised portion with elastic members or (ii) without folding back the side of the free end side towards the outer side have poor excretion leakage-prevention properties.

Accordingly, it is clear that the cited Yoshioka '023 reference is incapable of either anticipating or rendering obvious Applicants' claimed invention. In this respect, the cited Yoshioka '023 reference does not teach each of the elements recited in the present claims, and provides no motivation to those of ordinary skill in the art, which would allow them to arrive at the construction instantly claimed.

CONCLUSION

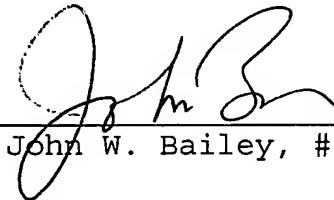
Based upon the amendments and remarks presented herein, the Examiner is respectfully requested to issue a Notice of Allowance clearly indicating that each of the pending claims are allowed and patentable under the provisions of Title 35 of the United States Code.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact John W. Bailey (Reg. No. 32,881) at the telephone number below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

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